

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5634 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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N.R. KEVAT

Versus

COLLECTOR  
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Appearance:

Shri Y.V. Shah for Petitioner no.1.  
Shri N.R. Tandel for petitioner no.2.  
Mr.Digant Joshi, ASSISTANT GOVERNMENT PLEADER for  
Respondent No. 1  
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CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 25/02/2000

ORAL JUDGEMENT :

Shri N.R. Kevat, the then President, Billimora  
Nagar Palika had initially filed this Special Civil  
Application. Shri Y.V. Shah, learned counsel appears  
for the said petitioner. Thereafter, one Civil  
Application No.12714 of 1997 came to be filed by one Shri

Sunilchandra Thakorebhai Gandhi, who is ordered to be joined as petitioner no.2 by an order of this Honourable Court dated 9.7.1998.

2. Today, when the matter reached hearing, it is submitted by Shri Y.V. Shah that the petition was filed against two impugned orders passed by the Collector, Valsad. One passed on 9.6.1988, in Municipal Appeal No.14 of 1988 under sec.258 of the Gujarat Municipalities Act, 1963 ("the Act" for brevity). By the said order, the Collector had granted stay against Billimora Nagar Palika from proceeding further with the construction of four cabins. The second order dated 16.8.1988 passed by the Collector directing Billimora Nagar Palika under sec.258 of the Act that the construction in question shall be removed within ten days.

3. In the petition, this Court passed the following order on 23.8.1988 :

"Rule. Ad interim relief in terms of para 17(B)."

Para 17(B) reads as under :

"Pending hearing and final disposal of this petition be pleased to restrain the respondent Collector, his officers, servants, agents and subordinates from implementing and enforcing upon the impugned orders in any manner, whatsoever and say its operation."

4. Shri Tandel, learned counsel appears for petitioner no.2, Sunilchandra Thakorebhai Gandhi and states that he has filed a fresh petition bearing Stamp No.1250 of 2000 on 23.2.2000. By the said petition he has challenged the order of the Collector dated 16.8.1988, Annexure 'B' to the present petition. As stated by Shri Y.V. Shah, Billimora Nagar Palika is not interested in continuing the challenge to the orders in question dated 9.6.1988 and 16.8.1988 and hence the petition may accordingly be disposed of. However, Shri N.R. Tandel for petitioner no.2 submits that it is petitioner no.2, who will be directly affected by any order that may be passed in this petition. As petitioner no.2 has already filed a fresh petition challenging the order dated 16.8.1988, the present petition is disposed of. However, the ad interim relief granted on 23.8.1998 is requested to be continued by Shri N.R. Tandel to enable him to obtain appropriate orders in the fresh petition filed by him. Shri Tandel further submits that

the ad interim relief granted by this Court be continued for a period of four weeks from the date of receipt of certified copy of the order. Shri Tandel undertakes to apply for the certified copy of the order at the earliest. It would be in the interest of justice and fitness of things if the interim relief is ordered to be continued till 15.4.2000, to enable Sunilchandra Thakorebhai Gandhi, petitioner no.2 to obtain appropriate orders in the fresh petition filed by him.

5. The Special Civil Application stands disposed.  
Rule is discharged with no order as to costs.

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